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EXAMINER

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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/762,375
Filing Date: January 23, 2004
Appellant(s): RAZUMOV, SERGEY N.

MAILED

JAN 30 2008

GROUP 3600

Alexander V. Yampolsky
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed December 13, 2007, appealing from the Office action mailed April 30, 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

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(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2004/0143512

STURR, JR. ET AL.

7-2004

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims. The ground(s) for rejection are reproduced below from the Final Office Action, mailed April 30, 2007, and are provided here for the convenience of both the Appellant and the Board of Patent Appeals:

Claim Rejections - 35 U.S.C. § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 29-43 are rejected under 35 U.S.C. § 102(e) as being anticipated by Sturr, Jr., US 2004/0143512 A1 (hereafter referred to as “Sturr”).

Referring to claim 29. Sturr discloses a system for enabling a customer to order a required product (see, e.g., Abstract), comprising:

- a voice recognition mechanism for recognizing voice commands from the customer (Figs. 1-13 and ¶¶0025 and 0027), and

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- a display mechanism responsive to the recognized voice commands for displaying images assisting the customer in ordering the product during a product ordering session (Figs. 1-13 and ¶¶0025 and 0027 – note the display mechanism touch screen monitor is responsive to voice commands through voice recognition and response systems and displays images such as a menu in the form of a wheel with spokes to assist the customer in ordering the product),
- the display mechanism being configured for displaying a first screen representing a first phase of the product ordering session and a second screen representing a second phase of the product ordering session (Figs. 1-13 and ¶¶0027 and 0031-0033 – note the first screen can be Fig. 1 and the second can be Fig. 2), and
- the voice recognition mechanism being configured to establish a first set of voice commands recognizable when the first screen is displayed, and a second set of voice commands recognizable when the second screen is displayed (Figs. 1-13 and ¶¶0027 and 0031-0033 – note the commands are the various options noted on each screen, e.g. in Fig. 4, the commands include “back to burger combinations,” “no cheese,” “burger,” etc., and in Fig. 5, the commands include “back to combinations,” “orange,” “iced tea,” etc.).

Referring to claim 30. Sturr further discloses the system of claim 29, wherein the first set of voice commands differs from the second set of voice commands (Figs. 1-13 and ¶¶0027 and 0031-0033).

Referring to claim 31. Sturr further discloses the system of claim 29 wherein the voice recognition mechanism is configured to recognize only voice commands of the first set when the first screen is displayed and to recognize only voice commands of the second set when the second screen is displayed (Figs. 1-13 and ¶¶0025 and 0027). Sturr discloses a set of hierarchically structured web pages, each being unique in that a user can only select options presented on each page and not from other pages, and further discloses that instead of the customer touching the screen to make a selection from the options presented, the voice recognition mechanisms can be used so that only voice commands of the options uniquely presented on the first set are recognized and only voice commands of the options uniquely represented on the second set are recognized.

Referring to claim 32. Sturr further discloses the system of claim 29 wherein the display mechanism is configured to display a first set of images corresponding to a first set of voice commands when the first screen is displayed, and to display a second set of images corresponding to the second set of voice commands when the second screen is displayed (Figs. 1-13 and ¶¶0027 and 0031-0033 - note the commands available are the various options noted by images on each screen, e.g. in Fig. 4, the commands include “back to burger combinations,” “no cheese,” “burger,” etc., and in Fig. 5, the commands include “back to combinations,” “orange,” “iced tea,” etc. and that these commands correspond to each unique set of voice commands).

Referring to claim 33. Sturr further discloses the system of claim 32 wherein the display mechanism is configured to perform a predetermined operation in response to a voice command recognized by the voice mechanism, and to perform the same predetermined operation in response to selection of a displayed image corresponding to the recognized voice command (Figs. 1-13 and ¶¶0027 – note that the predetermined operations include presenting different menus in response to the selection made).

Referring to claim 34. Sturr further discloses the system of claim 29 wherein the display mechanism is responsive to a recognized voice command to replace the first screen with the second screen, where the first and second screens represent non-consecutive phases of the product ordering session (Figs. 1-13 and ¶¶0027 – note the user can return to the main page, i.e. a second screen, which is non-consecutive to the ordering page, by returning to the main page or by canceling the order).

Referring to claim 35. Sturr further discloses the system of claim 29 wherein the voice recognition mechanism and the display mechanism are elements of a product ordering terminal in a retail

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facility (§§0004 and 0006 – note the terminal is a kiosk which can be in such retail facilities as fast food places, coffee houses, theme parks, malls, stadiums, universities and colleges).

Referring to claims 36-43. All of the limitations in system and method claims 36-43 are closely parallel to the limitations of system claims 29-35, analyzed above, and are rejected on the same bases.

(10) Response to Argument

The applicant argues that Sturr does not disclose or expressly teach voice commands from the customer to which the display mechanism is responsive (A.B. pages 6-11). The Examiner disagrees for the following reasons:

Sturr discloses a method and system for placing an order using a display and register for receiving input from a customer (Abstract). The invention in Sturr uses a kiosk with touch screen panels to receive input, guide the customer through the ordering process, and complete the order (Figs. 1-13). While discussing the method and system using touch screens, Sturr explicitly states that microphones and voice recognition and response systems may also be used (§0025, “however, other means for entering information may also be used, including keyboards, touch panels, ... microphones and voice recognition and response systems...”). Thus, Sturr anticipates the use of voice recognition to which the display mechanism is responsive.

In response to applicant’s argument that inherency is not shown (A.B. pages 7-9), the Examiner has not relied on inherency. There is no speculation of voice recognition – the reference clearly states the invention can use voice recognition.

In response to applicant's argument that the graphic objects displayed in Sturr are not necessarily voice commands in that even if voice recognition and response systems are used in making selections, they would not necessarily require establishing one set of voice commands recognizable when a first screen is displayed and another set of voice commands when another

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screen is displayed (A.B. pages 9-10), the Examiner again states that while Sturr uses the example of touch screen, Sturr clearly anticipates using voice recognition and that the voice commands are those correlating to the screen commands.

In response to applicant's argument that using a combination of input devices makes no sense (A.B. page 9), this argument is merely a conclusion with no factual basis. In absence of evidence to the contrary, the combination of devices anticipated by and/or envisioned by Sturr are enabled and practical and the reference stands.

In response to applicant's argument that the Examiner speculated the voice recognition in Sturr without support in the reference (A.B. page 10), the Examiner directs the Board's attention to ¶0025 that explicitly states voice recognition may also be used.¹

In response to applicant's argument that the reference provides no reason or advantage for using voice recognition (A.B. page 11), the Examiner states that even if correct, this is irrelevant. There is no requirement that the prior art state reasons or advantages so long as the claim limitations, i.e. voice recognition, are anticipated by the prior art.

In response to applicant's argument that Sturr neither expressly nor inherently discloses a display mechanism configured to perform a predetermined operation in response to a voice command, as claim 33 recites, or a display mechanism responsive to a recognized voice command to replace the first screen with a second screen (A.B., page 12), the Examiner disagrees. Sturr discloses a display mechanism that presents different menus in response to the

¹ Applicant also mischaracterizes Examiner's statement into a false admission (A.B. page 10). As applicant cites, the Examiner stated "instead of the customer touching the screen from the option presented, the voice recognition mechanism can be used so that only voice commands of the ... first set are recognized and only voice commands ... of the second set can be recognized." The Examiner did not state or insinuate that voice commands are established without displaying respective screens, as applicant asserts. The options are presented by touch screen and voice commands may be used to select options instead of touching the screen.

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selection made, which can be made by voice commands (¶¶0025 and 0027), i.e. perform a predetermined operation in response to a voice command. Furthermore, Sturr discloses a display mechanism that allows a user to return to a main page, i.e. a second screen, which is non-consecutive, by selecting to do so by touching the screen or voice commands (¶¶0025 and 0027), i.e. replace a first screen with a second screen in response to voice commands.

(11) Related Proceeding(s) Appendix


No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

AAS 1/17/08

Conferees:



Jeffrey A. Smith – SPE 3625



Vincent Millin - Appeal Specialist



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